

Message

From: White, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2702669a75e34e578e3a5e20db60cf53-whiteda]
Sent: 2/12/2022 2:58:41 PM
To: Lanthier-Seymour, Andrea [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=00715441dc5d44c9a6063a87c99a4cd9-lanthieran]
Subject: Fw: CONFIDENTIAL - Trucker Protest - Ottawa Police Request for Injunction

From: White, David
Sent: January 30, 2022 6:51 PM
To: Kanellakos, Steve <Steve.Kanellakos@ottawa.ca>
Cc: Box, Steve <Steve.Box@ottawa.ca>; Ayotte, Kim <Kim.Ayotte@ottawa.ca>; Huxley, Stuart <Stuart.Huxley@ottawa.ca>; Turner, Valerie <Valerie.Turner@ottawa.ca>
Subject: CONFIDENTIAL - Trucker Protest - Ottawa Police Request for Injunction

SOLICITOR-CLIENT PRIVILEGED

Good evening Steve,

I just got off a call with Chief Sloly and his team that is coordinating the OPS response to the protest on the issue of an injunction. They reached out to me to: (1) provide them with some advice in terms of the considerations that would apply, given the City's prior experience in this regard; and, (2) to canvass whether the City would be seeking an injunction as a means of supporting the OPS in the challenges they are facing.

I had to clarify for the Chief that, despite his views otherwise, I am not "the City" and that I have no independent authority to pursue an injunction. Rather, I stated that he and his team should be reaching out to their City counterparts to open the discussion, presumably to yourself and Kim. Further, I also indicated to him that it was something that might require direction from Council, given that obtaining an injunction to shut down a protest was an extraordinary step, given the *Charter* implications. The Chief asked me to give you a heads-up that the OPS may be reaching out, later this evening.

I also took the opportunity to explain to the Chief that any request for an injunction would need to be founded in public safety concerns. While the OPS' main concerns seem to be around noise, traffic impacts, public frustration (based on the idea that the Police should be doing something about the protest), mounting costs, air pollution, etc., there does not yet seem to be significant violence associated with the event, nor much in the way of public safety concern, according to the police. I advised them that there are also practical challenges with an injunction, including:

- identifying the specific conduct that the Court is being asked to enjoin that could not otherwise be prevented through the use of existing tools;
- the potential that attempts to enforce the injunction may themselves give rise to violence;
- that it is not a process of simply giving someone a fine for violating the injunction (which seemed to be what they considered would be the enforcement mechanism) but, rather, that an injunction is generally enforced by returning to court to seek a contempt order, which can take time;
- identifying the parties to whom the injunction is going to apply.

Frankly, I was left with the impression that what the Chief is looking for is an opportunity to say that the City denied the OPS a tool and that they now cannot be blamed for any public criticism of the police handling of the protest. Further, they do not appear to have a clear idea of just what use they would make of an injunction, if one could be obtained, or that it would be effectively deployed to help manage the event.

Apologies for the long note. As always, I would be happy to discuss further.

David

DAVID G. WHITE

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